

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CARTER, et al.,

Plaintiffs

VS.

MARTIN HORN, et al.,

Defendants

CIVIL ACTION

1-CV-DD-834

(Judge Caldwell)

Jury Trial Demand

PRSK Schimelfen's

FILED
HARRISBURG, PA

JUL 24 2000

MARY E. D'ANDREA, CLERK
Per gls
Deputy Clerk

PLAINTIFFS' MOTION IN OPPOSITION TO
COMMONWEALTH DEFENDANTS' MOTION TO DISMISS

Plaintiffs, John Carter, Jimmy McWhirter, Mariano Pailot, David Campbell, Arthur Carmichael Pro se, hereby move the Court to deny the Commonwealth defendants' Motion to Dismiss Plaintiffs' complaint against them because,

1. Plaintiffs' complaint alleges genuine issues of material fact/s/ that preclude granting defendants' Motion to Dismiss Plaintiffs' complaint on the grounds that it fails to state a claim upon which relief can be granted.

2. Because until the named Defendants have responded to Plaintiffs' combined Motions, of Interrogatories and Production of Documents, Plaintiffs are thereby unable to factually show to what extent each of the named Defendants are guilty of a violation of Plaintiffs' constitutional rights as alleged in their Complaint; And,

3. Plaintiffs have to date not received defendants' Brief in support of their Motion to Dismiss.

Plaintiffs' brief in support of this motion, with the Court's permission, be stayed, pending Plaintiff's reception of the defendants' brief in support of their Motion to Dismiss.

WHEREFORE, Plaintiffs pray that the Commonwealth Defendants' Motion to Dismiss be denied and/or stayed until such time as the named Defendants have responded to Plaintiffs' Discovery motions, submitted to them on or about March 22, 2000 c.e. .

Respectfully submitted,

By: John Carter
John Carter, Pro. Per.

P.F. # 04-1404

P.O. Box 256, Route 5

Waymart, Pa. 16872-0256

DATED: July 18, 2000 c.e.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CARTER, ET AL.,

Plaintiffs

VS.

MARTIN HORN, COMMISSIONER,

DEPT. OF CORRECTIONS, ET AL.,

Defendants

1:CV-00-0834

(Judge Caldwell)

CERTIFICATE OF SERVICE

I, John Carter, Plaintiff, pro se, on behalf of himself and the named Plaintiffs herein, hereby certify that on this date I caused to be served the foregoing, Plaintiffs' Motion in Opposition to the Commonwealth Defendants' Motion to Dismiss by depositing same in the United States Mail Box, on Block L-1, in SCI-Waymart, postage prepaid, and addressed to the following:

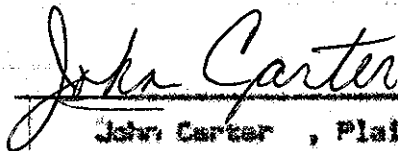
Seth A. Mendelsohn (DAG...)

Office of the Attorney General

15th Floor, Strawberry Square

Harrisburg, Pa. 17120

DATED: July 18, 2000 c.e.



John Carter, Plaintiff

P.P. # CH-1404

P.O. Box 156, Route 6

Waymart, Pa. 16872-0256

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CARTER, ET AL.,

Plaintiffs

vs.

MARTIN HORN, COMMISSIONER,
DEPT. OF CORRECTIONS, et al.

Defendants

1-CV-00-0834

(Judge Caldwell)

(Jury Trial Demand)

ORDER

AND NOW, this _____ day of _____, 2000, upon consideration of Plaintiffs' Motion In Opposition to Commonwealth Defendants' Motion to Dismiss, it is hereby ordered that the motion is GRANTED. The Motion of Commonwealth Defendants' to Dismiss Plaintiffs' Complaint is denied.

WILLIAM W. CALDWELL, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOHN CARTER, et al.,
Plaintiffs**

VS.

**MARTIN HORN, COMMISSIONER
DEPT. OF CORRECTIONS, et al.,
Defendants**

1:CV-00-0834

(Judge Caldwell)

ORDER

**AND NOW, this _____ day of _____, 2000, upon
consideration of Plaintiffs' AFFIDAVIT FOR EXTENSION OF TIME
it is hereby ordered that the motion is GRANTED.**

WILLIAM W. CALDWELL, J.